

JPA / ECS File No.: 05-107  
AG Contract No.: KR06-0163TRN  
Project No.: STP-066-A(033)  
Project: Andy Devine T.I.  
Section: Townsend Street, from Airway  
Avenue to Bank Street  
**TRACS No.: H6142 01C**  
**Budget Source Item No.: 73306 –**  
**District Minor**

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF KINGMAN

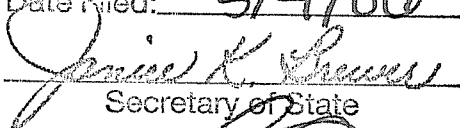
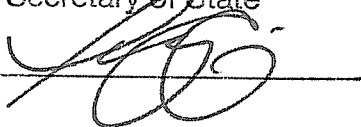
**THIS AGREEMENT** is entered into this date May 4, 2006, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF KINGMAN, acting by and through its MAYOR and CITY COUNCIL (the "City").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. The parties hereto agree to and acknowledge the following conditions: **a)** The estimated monetary amounts referenced in this Agreement are subject to change and can change substantially before completion of the Project; **b)** The parties shall perform their responsibilities consistent with this Agreement; and **c)** Any change or modification to the Project will only occur with the mutual written consent of the parties.
4. The State and the City desire to participate in the design, construction and maintenance of repaving a 2" asphaltic-concrete overlay located on Townsend Street, from Airway Avenue to Bank Street, and will be used as a detour for a part of the ADOT project on Andy Devine, hereinafter referred to as the "Project". The State will fund the Project using District Minor Funds, at an estimated amount, not to exceed \$65,000.00 and the City will design, construct and maintain the portion of the Project within City rights-of-way.

**THEREFORE**, in consideration of the mutual agreements expressed herein, it is agreed as follows:

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NO. 28214  
Filed with the Secretary of State  
Date Filed: 5/4/06  
  
Secretary of State  
By: 

**II. SCOPE OF WORK**

## 1. The State shall:

a. Review the design documents required for construction of the Project, and provide comments to the City, as appropriate.

b. Upon completion of the Project, inspect the work to insure that the Project has been satisfactorily completed.

c. Not be obligated to maintain this Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

d. Upon execution of this Agreement and within thirty-days (30) upon receipt and approval of an invoice from the City, remit to the City, from District Minor Funds, the actual costs for the Project, not to exceed \$65,000.00.

## 2. The City shall:

a. Designate the State as authorized agent for the City.

b. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit same to the State for comments and final approval.

c. Advertise for bids and award one or more construction contract(s) for the Project. Administer contracts for the Project and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by Project delays attributable to the State.

d. In the event unforeseen conditions or circumstances increase the cost of said work necessitated by change in the Project's Scope of Work, such additional costs shall require prior approval of the State. All costs attributable to any engineering change orders requested by the City shall be the sole responsibility of the City for payment.

e. Upon completion of the Project perform the final inspection and notify the State in writing that the Project has been constructed in accordance with the Project documents and has been satisfactorily completed.

f. Upon completion of the Project provide proper and perpetual maintenance for the portion of the Project within City's rights-of-way.

g. Upon execution of this Agreement, provide the State with an itemized list for the actual costs incurred along with an invoice for reimbursement to the City not to exceed \$65,000.00.

### **III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. However, any provisions for maintenance, provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon thirty-days (30) written notice to either party. It is understood and agreed that, in the event the City cancels this Agreement, the State shall in no way be obligated to maintain said Project

2. The parties to this Agreement agree that the State of Arizona shall be indemnified and held harmless by the City for the vicarious liability of the State as a result of entering into this Agreement. Each party to this Agreement is responsible for its own negligence.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, pertaining to the Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17<sup>th</sup> Avenue, Mail Drop 616E  
Phoenix, Arizona 85007  
(602) 712-7525  
(602) 712-7424 Fax

City of Kingman  
Attn: City Manager  
310 N. 4<sup>th</sup> Street  
Kingman, Arizona 86401  
(928) 753-8100  
(928) 753-6867 Fax

8. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

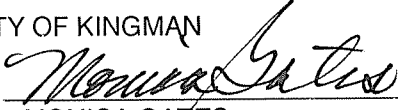
9. Non-Availability of Funds: Every payment obligation of the State and City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State and City at the end of the period for which the funds are available. No liability shall accrue to the State or the City in the event this provision is exercised as a result of termination under this paragraph.

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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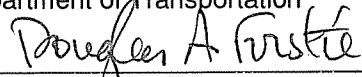
**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

CITY OF KINGMAN

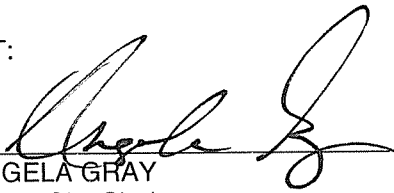
By   
MONICA GATES  
Mayor

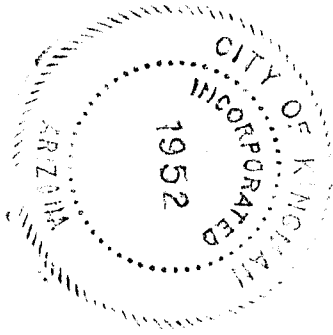
**STATE OF ARIZONA**

Department of Transportation

By   
DOUGLAS A. FORSTIE, P.E.  
Deputy State Engineer, Operations

ATTEST:

By   
ANGELA GRAY  
Acting City Clerk

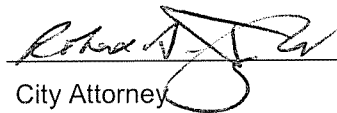


**ATTORNEY APPROVAL FORM FOR THE CITY OF KINGMAN**

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 27<sup>th</sup> day of March, 2006.

  
\_\_\_\_\_  
City Attorney

CITY OF KINGMAN

REGULAR MEETING OF THE COMMON COUNCIL

5:00 P.M.

Minutes

Monday, April 3, 2006

Members:	Officers:	Visitors Signing In:
M. Gates, Mayor	C. Cooper, Asst. City Attorney	See attached list
T. Spear, Vice Mayor	T. Duranceau, P & Z Administrator	
J. Baker	R. Taylor, City Attorney	
T. Carter	R. Foreman, Recording Secretary	
P. Moon	A. Gray, Acting City Clerk	
D. French	D. Fruhwirth, Parks Director	
R. Lyons	R. DeVries, Police Chief	
	P. Johnson, Engineer	
	J. Walker, HR Director	
	T. Jones, Neighborhood Services	
	G. Jeppson, Dev. Services Dir.	
	J. Kramer, Public Works Director	
	J. Weir, Economic Dev. Director	

Mayor Gates called the meeting to order at 5 p.m. and roll call was taken. All Council Members were present. The Invocation was given by Pastor Norm Taylor of the Hilltop Foursquare Church, after which, the Pledge of Allegiance was said in unison.

1. **APPROVAL OF MINUTES** (Regular Meeting of March 6, 2006 and Work Session of March 20, 2006)

Vice Mayor Spear made a MOTION to APPROVE the Minutes of March 6, 2006 as written. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

Councilmember French made a MOTION to APPROVE the Minutes of the Work Session of March 20, 2006 as written. Vice Mayor Spear SECONDED and it was UNANIMOUSLY APPROVED.

2. **CALL TO THE PUBLIC - COMMENTS FROM THE PUBLIC**

The Public Hearing was opened and after no comments, was closed.

3. **CONSENT AGENDA**

- a) **Liquor License application – Special Event Liquor License**

BAlton A. Childress, agent and applicant for the Kingman Elks Lodge #468 has applied for a Special Event Liquor License for a Harley Giveaway Dinner to be held at 120 W. Andy Devine Ave from 4:00PM to 12:00AM on April 22, 2006

- b) **Liquor License application – Special Event Liquor License**

BAlton A. Childress, agent and applicant for the Kingman Elks Lodge #468 has applied for a Special Event Liquor License for a Motorcycle Show/Harley River Run to be held at 2501 Beverly Ave from 9:00AM to 8:00PM on April 28<sup>th</sup> and 29<sup>th</sup>, 2006

- c) **Liquor License application – Extension of Premises**  
B Ron Foreman, agent and applicant for the VFW Post 3516, 2826 Wikieup Ave, has applied for an Extension of Premises for a Chamber of Commerce Mixer to be held at the VFW Post 3516, 2826 Wikieup Ave from 5:30PM to 9:00PM on April 13, 2006
- d) Approval of Change Order No. 2 to Mohave Excavation & Pipe, LLC, which calls for a 30 (thirty) day extension of time for project completion of the 24-inch water transmission line, Contract No. 04/05-05, as a result of field conditions.
- e) **Resolution No. 4273**  
Request for an extension of time for a 9 month deferral of street improvements at UniSource Gas on 3436 N. Evans St. and along their property on Byrd Avenue. They are requesting to be able to make the improvements in the first quarter of 2007 due to budget constraints.
- f) **Resolution No. 4274**  
Authorizing the Fire Chief Chuck Osterman to be the City's agent in processing a grant application for the Kingman Fire Department pertaining to the submission of projects for consideration in Arizona's 2006 Highway Safety Plan
- g) **Resolution No. 4234-Revised**  
Amending the original resolution approving the final plat for Serena Grace Meadows, Tract 6006 to include the abandonment of an unnamed portion of right-of-way
- h) **Resolution No. 4276**  
A request to change the name of "Kingman Crossing Boulevard" located in Kingman Crossing, Tract 1993-A, to "Split Branch Drive"
- i) Authorizing the Mayor to sign an Intergovernmental Agreement with the Arizona Department of Transportation for cost reimbursement of asphalt overlay of Townsend Street
- j) Modify City Manager salary as adopted by Resolution No. 4062
- k) **AWARD OF BIDS/PROPOSALS/CONTRACTS**
  - 1)-**BIDS-PW**-Award of Bid of 3,500 tons of Cover Material Chips to Desert Construction, Inc in the amount of \$36.00 per ton
  - 2)-**BIDS-ENG**-Award of Bid of the construction of approximately 1,501 square yards of asphalt pavement, approximately 5,183 square feet of sidewalks, approximately 914 linear feet of vertical curb and gutter and approximately 1,157 linear feet of single curb and other related work to Larry D. Builders in the amount of \$95,279.03
  - 3)-**BIDS-CDBG**-Award of Bid to GV Lawson, Inc for the complete restroom improvements at Chat n Chow Senior Center under CDBG contract #164-05 in the amount of \$36,000

Mayor Gates pulled Item e for further discussion.

Councilmember Carter stated he would be abstaining from item h and wanted item j pulled for further discussion.

Councilmember French made a MOTION to APPROVE the balance of the Consent Agenda. Councilmember Carter SECONDED and it was UNANIMOUSLY APPROVED.

**(Resolution No. 4274)**  
**(Resolution No. 4234-Revised)**

Per the applicant's request, Vice Mayor Spear made a MOTION to DENY Item e, Resolution No. 4273. Councilmember Moon SECONDED and it was UNANIMOUSLY DENIED.

Vice Mayor Spear made a MOTION to APPROVE Item h, Resolution No. 4276.  
Councilmember Baker SECONDED and it was APPROVED by a vote of 6 – 0 with  
Councilmember Carter abstaining.

**(Resolution No. 4276)**

Councilmember Carter stated that Item j should be TABLED for further discussion as the City Manager was not present. Councilmember French made a MOTION to TABLE Item j.  
Councilmember Carter SECONDED and it was TABLED UNANIMOUSLY.

New Business: (for review, comment and/or action)

**4. Public Hearing**

Appeal to Council by Ms. Helen Paterson regarding the abatement of Slaughterhouse Canyon Road/Wallapai Lane (Indian Camp) Property

**The Public Hearing was opened. Citizen comments included –**

Stephanie Bishop, stated that she is helping with the clean up of her grandmother's property located at Slaughterhouse Canyon Road/Wallapai Lane (Indian Camp) and is willing to work with the neighborhood services officer.

Helen Patterson, P.O. Box 14, stated that she is very unhappy with the City of Kingman coming onto her property, located in Slaughterhouse Canyon Road and Wallapai Lane (Indian Camp) property, and removing her personal property without her permission.

Neighborhood Services officer Theresa Jones stated that after speaking with Assistant City Attorney Carl Cooper, that the junk and debris issue would be dropped but the issue of abandoned vehicles on Ms. Patterson's property needs to be put behind a site restricted fence area or garaged per code. Mayor Gates asked Ms. Patterson if she was willing to let the City of Kingman abatement officers come onto her property to inspect it and remove more debris if necessary. Ms. Patterson did not respond to Mayor Gates' question. Councilmember French stated that the City should grant Ms. Patterson a continuance of 90 days on her appeal to make the corrections to her property and have Ms. Patterson's approval of access to her property by the City. Carl Cooper, Assistant City Attorney stated that a 90 day continuance with allowance on the property would be fine, but if Ms. Patterson does not comply within the 90 days that his office would proceed with prosecution.

With no further discussion, the Public Hearing was closed.

Councilmember French made a MOTION to grant a continuance of 90 days with allowance of access by the City, to Ms. Patterson's property. Councilmember Carter SECONDED and it was UNANIMOUSLY APPROVED.

**5. PUBLIC HEARINGS on Planning and Zoning Commission Recommendations**

**a) Resolution No. 4271**

A request from Karson and Claryce Crosby, applicants and property owners, for a minor general plan amendment to modify the existing land use designation of certain property from Medium Density Residential 3-8 dwelling units per acre to Neighborhood Commercial. The subject property is 13,173 square feet in size and is located at 1906 Louise Avenue on the southeast corner of Louise and Stockton Hill Road. The subject property is further described as Lots 6 and 7, Block 1, Kingman Metropolitan Addition, 3rd Amended, Unit No. 3.

**The Public Hearing was opened. Citizen comments included –**

Sid Kindig, 1920 Louise Avenue, stated that he was opposed to the rezoning of 1906 Louise



Avenue.

Karson Crosby, 1701 Quail Ridge Circle, applicant and property owner, stated he is requesting a minor amendment to modify the existing property at 1906 Louise to neighborhood commercial for a construction office.

The Public Hearing was closed.

With no further discussion, Councilmember Lyons made a MOTION to DENY Resolution No. 4271. Vice Mayor Spear SECONDED and it was DENIED by a vote of 6 – 1 with Councilmember Baker voting Nay.

**b) Resolution No. 4272**

A city-initiated request for a minor general plan amendment to modify the existing land use designation of certain property from Intermediate Density Residential 9-16 dwelling units per acre to Community Commercial. The subject property is approximately 2.75 acres in size and is located along the west side of Bank Street between Stephens Avenue and Morrow Avenue. The subject property is further described as Block 2 of Banks Airport Addition.

Councilmember Baker stated he would be abstaining from voting on Resolution No. 4272 due to a conflict of interest.

Gary Jeppson, Development Services Director, stated that the Planning and Zoning Commission recommends approval of Resolution No. 4272. Staff does not concur with the Commission's recommendation.

**The Public Hearing was opened. Citizen comments included –**

Ron Miller, Box 6188, Kingman, Arizona, stated he is opposed to Resolution No. 4272.

With no further discussion, Councilmember French made a MOTION to APPROVE Resolution No. 4272. Councilmember Lyons SECONDED and it was APPROVED by a vote of 6 – 0 with Councilmember Baker abstaining.

**(Resolution No. 4272)**

**c) Ordinance No. 1539**

A city-initiated request for the rezoning of certain property from R-2: Residential Multiple Family, Low Density and R-1-6: Residential, Single Family, 6,000 square foot lot minimum to C-2: Commercial, Community Business. The subject property is approximately 8.25 acres in size and is located along the west side of Bank Street between Stephens Avenue and Kino Avenue. The subject property is further described as Blocks 2, 3 and 4 of Banks Airport Addition.

Councilmember Baker stated he would be abstaining from voting on Ordinance No. 1539 due to a conflict of interest.

Gary Jeppson, Development Services Director, stated that the Planning and Zoning Commission recommends approval of Ordinance No. 1539. Staff does not concur with the Commission's recommendation.

**The Public Hearing was opened and after no comments, was closed.**

With no further discussion, Councilmember Lyons made a MOTION to APPROVE Ordinance No. 1539. Councilmember Carter SECONDED and it was APPROVED by a vote of 6 – 0 with Councilmember Baker abstaining.

**(Ordinance No. 1539)**

6. **ANNOUNCEMENTS BY MAYOR & COUNCILMEMBERS**

There were no announcements by the Mayor or Councilmembers.

7. **EXECUTIVE SESSION (per A.R.S. ' 38-431.03 A.3)**

There was no need for an Executive Session

Councilmember French made a MOTION to ADJOURN. Councilmember Carter SECONDED and it was UNANIMOUSLY APPROVED.

ADJOURNMENT 6:04:22 PM

ADJOURN 6:04 P.M.

ATTEST:

APPROVED:

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Angela Gray  
Acting City Clerk

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Monica Gates, Mayor

STATE OF ARIZONA)  
COUNTY OF MOHAVE)ss:  
CITY OF KINGMAN)


**CERTIFICATE OF COUNCIL MINUTES**

I, Robin Foreman, Recording Secretary of the City of Kingman, Arizona, hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the Common Council of the City of Kingman held on Monday, April 3, 2006.

Dated this 6th day of April, 2006

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Robin Foreman, Recording Secretary  
Mayor Gates called the meeting to order at 5 p.m. and roll call was taken. All Council Members were present. The Invocation was given by Pastor Norm Taylor of the Hilltop Foursquare Church, after which, the Pledge of Allegiance was said in unison.

<p>TERRY GODDARD Attorney General</p>	<p> <b>OFFICE OF THE ATTORNEY GENERAL</b> STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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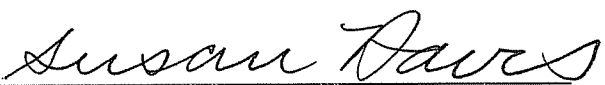
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR06-0163TRN (**JPA 05-107**), an Agreement between public agencies, i.e., The State of Arizona and City of Kingman, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: April 19, 2006

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:mjf:956933  
Attachment